

107TH CONGRESS  
1ST SESSION

# H. R. 945

To adjust the immigration status of certain Colombian and Peruvian nationals who are in the United States.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 8, 2001

Mr. DIAZ-BALART (for himself, Mr. CROWLEY, Ms. ROS-LEHTINEN, Mr. MENENDEZ, Mr. BLAGOJEVICH, Ms. BROWN of Florida, Mr. CAPUANO, Mr. TOM DAVIS of Virginia, Mr. DELAHUNT, Mr. DEUTSCH, Ms. ESHOO, Mr. FARR of California, Mr. FILNER, Mr. FOLEY, Mr. GILMAN, Ms. JACKSON-LEE of Texas, Mr. LANTOS, Ms. LEE, Ms. LOFGREN, Mr. MARKEY, Mr. MCGOVERN, Ms. MCKINNEY, Mr. MEEHAN, Mrs. MEEK of Florida, Mr. MOAKLEY, Mr. MORAN of Virginia, Mrs. MORELLA, Mr. PASCRELL, Mr. ROTHMAN, Mr. SERRANO, Mr. SMITH of New Jersey, Mr. TOWNS, Mr. WEXLER, and Mr. WYNN) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To adjust the immigration status of certain Colombian and Peruvian nationals who are in the United States.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

### 3   **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Andean Adjustment  
5   Act of 2001”.

1 **SEC. 2. ADJUSTMENT OF STATUS OF CERTAIN COLOMBIAN**  
2 **AND PERUVIAN NATIONALS.**

3 (a) ADJUSTMENT OF STATUS.—

4 (1) IN GENERAL.—Notwithstanding section  
5 245(c) of the Immigration and Nationality Act, the  
6 status of any alien described in subsection (b) shall  
7 be adjusted by the Attorney General to that of an  
8 alien lawfully admitted for permanent residence, if  
9 the alien—

10 (A) applies for such adjustment before  
11 April 1, 2005; and

12 (B) is otherwise eligible to receive an im-  
13 migrant visa and is otherwise admissible to the  
14 United States for permanent residence, except  
15 in determining such admissibility the grounds  
16 for inadmissibility specified in paragraphs (4),  
17 (5), (6)(A), and (7)(A) of section 212(a) of the  
18 Immigration and Nationality Act shall not  
19 apply.

20 (2) RELATIONSHIP OF APPLICATION TO CER-  
21 TAIN ORDERS.—An alien present in the United  
22 States who has been ordered excluded, deported, re-  
23 moved, or ordered to depart voluntarily, from the  
24 United States under any provision of the Immigra-  
25 tion and Nationality Act may, notwithstanding such  
26 order, apply for adjustment of status under para-

1 graph (1). Such an alien may not be required, as a  
2 condition on submitting or granting such applica-  
3 tion, to file a motion to reopen, reconsider, or vacate  
4 such order. If the Attorney General grants the appli-  
5 cation, the Attorney General shall cancel the order.  
6 If the Attorney General renders a final administra-  
7 tive decision to deny the application, the order shall  
8 be effective and enforceable to the same extent as if  
9 the application had not been made.

10 (b) ALIENS ELIGIBLE FOR ADJUSTMENT OF STA-  
11 TUS.—The benefits provided by subsection (a) shall apply  
12 to any alien who is a national of Colombia or Peru—

13 (1) who was physically present in the United  
14 States on December 1, 1995; and

15 (2) has been physically present in the United  
16 States for at least 1 year and is physically present  
17 in the United States on the date the application for  
18 adjustment of status under this Act is filed, except  
19 an alien shall not be considered to have failed to  
20 maintain continuous physical presence by reason of  
21 an absence, or absences, from the United States for  
22 any periods in the aggregate not exceeding 180  
23 days.

24 (c) STAY OF REMOVAL.—

1           (1) IN GENERAL.—The Attorney General shall  
2       provide by regulation for an alien subject to a final  
3       order of deportation, removal, or exclusion to seek a  
4       stay of such order based on the filing of an applica-  
5       tion under subsection (a).

6           (2) DURING CERTAIN PROCEEDINGS.—Notwith-  
7       standing any provision of the Immigration and Na-  
8       tionality Act, the Attorney General shall not order  
9       any alien to be removed from the United States, if  
10      the alien is in exclusion, deportation, or removal pro-  
11      ceedings under any provision of such Act and raises  
12      as a defense to such an order the eligibility of the  
13      alien to apply for adjustment of status under sub-  
14      section (a), except where the Attorney General has  
15      rendered a final administrative determination to  
16      deny the application.

17          (3) WORK AUTHORIZATION.—The Attorney  
18      General may authorize an alien who has applied for  
19      adjustment of status under subsection (a) to engage  
20      in employment in the United States during the  
21      pendency of such application and may provide the  
22      alien with an “employment authorized” endorsement  
23      or other appropriate document signifying authoriza-  
24      tion of employment, except that if such application  
25      is pending for a period exceeding 180 days, and has

1 not been denied, the Attorney General shall author-  
2 ize such employment.

3 (d) ADJUSTMENT OF STATUS FOR SPOUSES AND  
4 CHILDREN.—

5 (1) IN GENERAL.—Notwithstanding section  
6 245(c) of the Immigration and Nationality Act, the  
7 status of an alien shall be adjusted by the Attorney  
8 General to that of an alien lawfully admitted for per-  
9 manent residence, if—

10 (A) the alien is the spouse, child, or un-  
11 married son or daughter, of an alien whose sta-  
12 tus is adjusted to that of an alien lawfully ad-  
13 mitted for permanent residence under sub-  
14 section (a), except that in the case of such an  
15 unmarried son or daughter, the son or daughter  
16 shall be required to establish that they have  
17 been physically present in the United States for  
18 at least 1 year;

19 (B) the alien applies for such adjustment  
20 and is physically present in the United States  
21 on the date the application is filed; and

22 (C) the alien is otherwise eligible to receive  
23 an immigrant visa and is otherwise admissible  
24 to the United States for permanent residence,  
25 except in determining such admissibility the

1 grounds for exclusion specified in paragraphs  
2 (4), (5), (6)(A), and (7)(A) of section 212(a) of  
3 the Immigration and Nationality Act shall not  
4 apply.

5 (2) PROOF OF CONTINUOUS PRESENCE.—For  
6 purposes of establishing the period of continuous  
7 physical presence referred to in paragraph (1)(B),  
8 an alien shall not be considered to have failed to  
9 maintain continuous physical presence by reason of  
10 an absence, or absences, from the United States for  
11 any periods in the aggregate not exceeding 180  
12 days.

13 (e) AVAILABILITY OF ADMINISTRATIVE REVIEW.—  
14 The Attorney General shall provide to applicants for ad-  
15 justment of status under subsection (a) the same right to,  
16 and procedures for, administrative review as are provided  
17 to—

18 (1) applicants for adjustment of status under  
19 section 245 of the Immigration and Nationality Act;  
20 or

21 (2) aliens subject to removal proceedings under  
22 section 240 of such Act.

23 (f) LIMITATION ON JUDICIAL REVIEW.—A deter-  
24 mination by the Attorney General as to whether the status

1 of any alien should be adjusted under this Act is final and  
2 shall not be subject to review by any court.

3 (g) NO OFFSET IN NUMBER OF VISAS AVAILABLE.—

4 When an alien is granted the status of having been law-  
5 fully admitted for permanent residence pursuant to this  
6 Act, the Secretary of State shall not be required to reduce  
7 the number of immigrant visas authorized to be issued  
8 under any provision of the Immigration and Nationality  
9 Act.

10 (h) APPLICATION OF IMMIGRATION AND NATION-  
11 ALITY ACT PROVISIONS.—Except as otherwise specifically  
12 provided in this section, the definitions contained in the  
13 Immigration and Nationality Act shall apply in the admin-  
14 istration of this Act. Nothing contained in this Act shall  
15 be held to repeal, amend, alter, modify, effect, or restrict  
16 the powers, duties, functions, or authority of the Attorney  
17 General in the administration and enforcement of such  
18 Act or any other law relating to immigration, nationality,  
19 or naturalization. The fact that an alien may be eligible  
20 to be granted the status of having been lawfully admitted  
21 for permanent residence under this section shall not pre-  
22 clude the alien from seeking such status under any other  
23 provision of law for which the alien may be eligible.

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